

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
May 11, 2010

3:30 P.M. SCHEDULED SESSION

3:34 P.M. MEETING COMMENCED

ROLL CALL: Joe Brown, William Boyd, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins. Bill Morrison was absent.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Aaron Litzsey from New Bethel Temple COGIC. Councilwoman Halbert presented Pastor Litzsey with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

4. **RESOLUTION APPROVING A HOTEL WAIVER FOR AMERICAN INN LOCATED AT 3265 ELVIS PRESLEY BOULEVARD, MEMPHIS, TN 38116.**

Case No. HMW 10-03

Held until May 25, 2010

25. **ORDINANCE TO CREATE THE CITY OF MEMPHIS ALCOHOL IMPACT AREA, UP FOR T H I R D AND F I N A L READING. (HELD FROM 4/13; 4/27)**

Ordinance No. 5349

Held until June 8, 2010

26. **ORDINANCE TO AMEND CHAPTER 21, MOTOR VEHICLES AND TRAFFIC, ARTICLE IX, INSPECTION OF VEHICLES TO REQUIRE ANNUAL INSPECTION ONLY FOR VEHICLES FOUR (4) YEARS OLD OR OLDER, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5351

Held until June 22, 2010

34. **RESOLUTION REQUESTING THE ADMINISTRATION TO REMOVE FUNDING FROM PROPOSED FY 2011 O&M BUDGET TO COVER COSTS ASSOCIATED WITH VEHICLE INSPECTIONS. (HELD FROM 4/13).**

Held until June 22, 2010

36. **PROCLAMATION DECLARING MAY 2010 AS MEMPHIS FIRE FIGHTER APPRECIATION MONTH.**

(This Proclamation was presented by Mayor Wharton)

38. **RESOLUTION RECOGNIZING DOUGLASS HIGH SCHOOL GIRLS' BASKETBALL TEAM AS DISTRICT 16-A CITY AND LEAGUE CHAMPIONS.**

MOTION: Ware

SECOND: Ford

APPROVED, unanimous voice vote

3. **RESOLUTION RECOGNIZING CENTRAL HIGH VOLLEYBALL TEAM AS DISTRICT 16-AAA AND MIAA CITY CHAMPIONS.**

MOTION: Ford

SECOND: Ware

APPROVED, unanimous voice vote

1. **RESOLUTION RECOGNIZING FRANCES MANLEY ON HER RETIREMENT FROM THE FRIENDS OF THE LIBRARY BOARD AFTER MORE THAN 40 YEARS OF SERVICE.**

MOTION: Strickland

SECOND: Ford

APPROVED, by acclamation

MINUTES

Approval of the Minutes of the regular meeting of April 27, 2010 with the following motion:

MOTION: Ford
SECOND: Strickland
AYES: Boyd, Conrad, Ford, Fullilove, Lowery, Strickland, Ware and Chairman Collins
Brown, Flinn, Halbert and Hedgepeth did not cast a vote
Morrison was absent

APPROVED

2. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE FOR MRS. BETTYE LOUISE CUMBY SCOTT.**

MOTION: Fullilove
SECOND: Ford

APPROVED, unanimous voice vote

(Councilman Boyd made a motion for these appointments to be voted on separately, without objection).

37. **APPOINTMENTS**

DIRECTOR OF COMMUNITY ENHANCEMENT**Reappointment**

Ernest Dobbins

MOTION: Strickland
SECOND: Ware
AYES: Brown, Conrad, Ford, Fullilove, Halbert, Lowery, Strickland, Ware and Chairman Collins
NAYS: Boyd, Flinn and Hedgepeth
Morrison was absent

APPROVED**DIRECTOR OF HUMAN RESOURCES****Appointment**

Quintin Robinson

MOTION: Strickland
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Strickland, Ware and Chairman Collins
Morrison was absent

APPROVED

DIRECTOR OF PARK SERVICES

Reappointment

Cynthia Buchanan

MOTION: Strickland
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Strickland, Ware and Chairman Collins
Morrison was absent

APPROVED

DIRECTOR OF PUBLIC SERVICES AND NEIGHBORHOODS

Reappointment

Janet Hooks

MOTION: Strickland
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Strickland, Ware and Chairman Collins
Morrison was absent

APPROVED

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTH SIDE OF SUMMER AVENUE; ± 57 FEET EAST OF CARPENTER STREET, CONTAINING 0.17 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 10-211

Applicant: Steve Makris
Ledford Eng. & Planning – Candace Cannon – Representative

Request: Motor Vehicle Service Use

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Flinn
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Halbert did not cast a vote
Morrison was absent

APPROVED

6. **ORDINANCE AMENDING THE JOINT MEMPHIS AND SHELBY COUNTY ZONING ORDINANCE – REGULATIONS ADOPTED BY THE SHELBY COUNTY BOARD OF COMMISSIONERS ON OCTOBER 6, 1980, AND THE CITY COUNCIL OF THE CITY OF MEMPHIS ON OCTOBER 7, 1980, BEING RESOLUTION AND ZONING ORDINANCE NO. 3064, AS AMENDED, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5340

Case No. ZTA 09-002cc

Request: (1) Amend Section 2 to define the term “Family Recreation Center(s)”

(2) Amend Section 2 to define the term “Park(s)”

(3) Amend Chart 1, Footnote 18, requiring Adult Entertainment uses to be located a minimum distance of 1,500 feet from certain identified uses, to add “Family Recreation Center(s)” “Day Care Centers” as two of the identified uses listed.

LUCB and OPD recommendation: APPROVAL

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Flinn, Ford, Halbert, Hedgepeth, Lowery, Strickland, Ware and
Chairman Collins
Conrad recused
Fullilove did not cast a vote
Morrison was absent

APPROVED

CONSENT AGENDA – Items 7 – 20, #41 & #43, may be acted upon by one motion: SEE PAGE 1483 FOR ROLL CALL

7. **ORDINANCE AMENDING CHAPTER 15, SECTION 15-7, CITY OF MEMPHIS CODE OF ORDINANCES, TO REVISE LANGUAGE REGARDING CITY ISSUED CARTS AND USE OF PERSONAL CONTAINERS, UP FOR F I R S T READING.**

Ordinance No. 5355

APPROVED, on First reading

8. **ORDINANCE AMENDING CHAPTER 33, CITY OF MEMPHIS CODE OF ORDINANCES, TO INCREASE SEWER FEES, UP FOR F I R S T READING.**

Ordinance No. 5356

APPROVED, on First reading

9. **ORDINANCE TO AMEND CHAPTER 2, ARTICLE IV, OF THE CODE OF ORDINANCES, SO AS TO ESTABLISH THE CITY OF MEMPHIS MINORITY BUSINESS DEVELOPMENT AND OVERSIGHT COMMISSION, UP FOR F I R S T READING.**

Ordinance No. 5357

APPROVED, on First reading

10. **ORDINANCE TO AMEND CHAPTER 25, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO INCREASE THE CITY CONTRIBUTION ALLOWABLE UNDER SECTION 25-71 AND SECTION 25-171, UP FOR F I R S T READING.**

Ordinance No. 5358

APPROVED, on First reading

11. **ORDINANCE TO INCREASE PENSION BENEFITS ALLOWABLE UNDER SECTION 25-95 AND SECTION 25-195, UP FOR F I R S T READING.**

Ordinance No. 5359

APPROVED, on First reading

12. **ORDINANCE ESTABLISHING THE FISCAL YEAR 2011 OPERATING BUDGET FOR THE CITY OF MEMPHIS, UP FOR F I R S T READING.**

Ordinance No.5360

Ordinance to appropriate the proceeds of the tax levy on the assessed values on all properties of every species within the city limits for general purposes for the Fiscal Year July 1, 2010, through June 30, 2011.

APPROVED, on First reading

13. **ORDINANCE FIXING THE TAX RATE OF THE CITY OF MEMPHIS FOR FISCAL YEAR 2011, UP FOR F I R S T READING.**

Ordinance No. 5361

APPROVED, on First reading

14. **ORDINANCE TO AMEND CHAPTER 15, TO REGULATE DISPOSAL OF ITEMS BY PROPERTY OWNERS THAT DO NOT PAY SOLID WASTE DISPOSAL FEES, UP FOR S E C O N D READING.**

Ordinance No. 5353

APPROVED, on Second reading

15. **RESOLUTION APPROVING FINAL PLAT OF STARKS SUBDIVISION.**

Case No. S 07-020

Resolution approves the final plat beginning at the northwest terminus of Prince Phillip Cove.

City Engineer recommends approval

APPROVED

16. **RESOLUTION APPROVING FINAL PLAT OF UPCHURCH S/D.**

Case No. PD 09-003

Resolution approves the final plat located on the Westside of Springer Drive, 317.61 feet north of Walnut Trace Drive. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

APPROVED

17. **RESOLUTION APPROVING FINAL PLAT OF MEMPHIS HOMEBUILDERS P.D., PHASE 1, ROAD IMPROVEMENTS.**

Contract No. CR-5156

Resolution approves the final plat located on the southeast corner of N. Germantown Parkway and Walnut Run Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

18. **RESOLUTION APPROVING FINAL PLAT OF KROC CENTER P.D.**

Case No. PD 07-306
Contract No. CR-5157

Resolution approves the final plat located on the east side of East Parkway South, 391 feet south of Central Avenue. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

19. **RESOLUTION APPROVING STANDARD TRAFFIC SIGNAL MODIFICATION CONTRACT FOR WINCHESTER/HACKS CROSS ROAD P.D. – SIGNAL AT WINCHESTER ROAD AND POLO CLUB.**

Contract No CR-5158

Resolution approves the standard traffic signal modification contract located at the intersection of Winchester Road and Polo Club (a private drive). Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard traffic signal contract.

City Engineer recommends approval

APPROVED

20. **RESOLUTION CONGRATULATING JIM DUNCAN ON HIS GARDEN CLUB OF AMERICA AWARD.**

APPROVED

41. **ORDINANCE AMENDING CHAPTER 15, SECTION 15-12, CITY OF MEMPHIS CODE OF ORDINANCES, TO INCREASE SOLID WASTE FEES FOR COLLECTION AND DISPOSAL, ADD A CART LEASING OPTION AND REVISE THE DESCRIPTION OF THE RESIDENTIAL AND COMMERCIAL BUSINESS CATEGORIES, UP FOR F I R S T READING.**

Ordinance No. 5354

APPROVED, on First reading

43. **ORDINANCE TO AMEND PREVIOUS ORDINANCE 4388, CODIFIED AS CITY CODE, TITLE 6, ARTICLE 6, SECTION 2-331(A), TO EXTEND THE SUNSET CLAUSE SET FORTH THEREIN UNTIL DECEMBER 31, 2010, UP FOR F I R S T READING.**

Ordinance No. 5362

APPROVED, on First reading

ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Flinn
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland,
Ware and Chairman Collins
Hedgepeth did not cast a vote
Morrison was absent

APPROVED

MLGW FISCAL CONSENT – Items 21 – 24, #39 & #40, may be acted upon by one motion:

21. **RESOLUTION AWARDED CONTRACT NO. 11371, UPS/PDU ELECTRIC OPERATIONS MAINTENANCE, TO ELECTRONIC POWER SYSTEMS, INC. IN THE FUNDED AMOUNT OF \$52,650.00. (HELD FROM 4/27)**

APPROVED

22. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 10929, LICENSING AGREEMENT BETWEEN MLGW AND E-SOURCE, INC. IN THE FUNDED AMOUNT OF \$24,320.00, FOR A NEW CONTRACT VALUE OF \$1,589,967.47. (THIS CHANGE PROVIDES ACCESS TO ALL MATERIALS, REPORTS, RESEARCH, BEST PRACTICES AND INQUIRIES FROM INTELLIGENT GRID SERVICE COVERING THE PERIOD MAY 1, 2010 TO APRIL 30, 2011, AND ACCOMMODATES MLGW'S SMART GRID DEMONSTRATION PROJECT DEVELOPMENT AND IMPLEMENTATION NEEDS TO EFFECTIVELY AND EFFICIENTLY DEVELOP AND IMPLEMENT THE PROJECT). (HELD FROM 4/27)**

APPROVED

23. **RESOLUTION GIVING MLGW'S VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$115,000.00 FOR A LEGAL SETTLEMENT.**

APPROVED

24. **RESOLUTION GIVING MLGW'S VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$160,000.00 FOR A LEGAL SETTLEMENT.**

APPROVED

39. **RESOLUTION GIVING MLGW'S VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$28,958.39 FOR A CLAIMS SETTLEMENT.**

APPROVED

40. **RESOLUTION GIVING MLGW'S VICE PRESIDENT AND GENERAL COUNSEL CONTRACT AUTHORITY IN THE AMOUNT OF \$36,000.00 FOR A LEGAL SETTLEMENT.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Fullilove
SECOND: Ware
AYES: Boyd, Conrad, Flinn, Ford, Halbert, Lowery, Strickland, Ware and Chairman Collins
Brown, Fullilove and Hedgepeth did not cast a vote
Morrison was absent

APPROVED

27. **ORDINANCE AMENDING CHAPTER 21, ARTICLE V, CODE OF ORDINANCES, CITY OF MEMPHIS, TO UPDATE REGULATIONS REGARDING THE OPERATION OF BICYCLES WITHIN THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5352

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins
Brown did not cast a vote
Morrison was absent

APPROVED

28. **RESOLUTION AMENDING THE FISCAL YEAR 2010 BUDGET TO MOVE APPROPRIATIONS BETWEEN CATEGORIES, SERVICE CENTERS AND APPROVE ADDITIONAL FUNDING FROM RESERVES AS A RESULT OF UNANTICIPATED CIRCUMSTANCES.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,

Ware and Chairman Collins
Brown did not cast a vote
Morrison was absent

APPROVED

29. **RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$80 MILLION DOLLARS (\$80,000,000.00) PRINCIPAL AMOUNT OF THE CITY OF MEMPHIS, TENNESSEE, GENERAL IMPROVEMENT BONDS, SERIES 2010B, FOR THE PURPOSE OF FINANCING VARIOUS PUBLIC WORKS PROJECTS OF THE CITY.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins
Morrison was absent

APPROVED

30. **RESOLUTION APPROPRIATING \$100,000.00 FOR CONSTRUCTION IN CIP PROJECT NUMBER PK06009, GOLF COURSE GREEN REHAB, CHARGEABLE TO THE FY2010 CAPITAL IMPROVEMENT BUDGET.**

MOTION: Boyd
SECOND: Hedgepeth
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins
Morrison was absent

APPROVED

31. **RESOLUTION APPROPRIATING \$440,000.00 FOR CONSTRUCTION OF A SKATE PARK, CIP PROJECT NUMBER PK07098, CHARGEABLE TO THE FY2010 CAPITAL IMPROVEMENT BUDGET.**

(Councilman Brown made a motion for this item to be held for 6 weeks. Councilwoman Ware offered a Friendly Amendment to this motion, adding that it be held until a definite site for this Skate Park is determined).

(Special Item #1 – Councilman Brown’s and Councilwoman Ware’s motions)

MOTION: Brown
SECOND: Ware
AYES: Brown, Fullilove, Halbert, Ware and Chairman Collins
NAYS: Boyd, Conrad, Flinn, Ford, Hedgepeth, Lowery and Strickland

Morrison was absent

(Special Item #1 – FAILED)

MAIN MOTION: Boyd
SECOND: Hedgepeth
AYES: Boyd, Flinn, Ford, Lowery, Strickland and Chairman Collins
NAYS: Brown, Conrad, Fullilove, Halbert and Ware
Hedgepeth did not cast a vote
Morrison was absent

APPROVED

32. **RESOLUTION APPROPRIATING \$2,500,000.00 IN CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR ZOO HIPPO EXHIBIT, CIP PROJECT NUMBER PK09004.**

Council did include Zoo Hippo Exhibit, CIP Project Number PK09004 as part of the FY2010 Capital Improvement Program. The City of Memphis has entered into an agreement with the Memphis Zoological Society which provides for procedures for the use and payment of the current and future Capital Appropriation.

MOTION: Boyd
SECOND: Strickland
AYES: Boyd, Brown, Conrad, Flinn, Ford, Halbert, Lowery, Strickland, Ware and Chairman Collins
Fullilove abstained
Hedgepeth did not cast a vote
Morrison was absent

APPROVED

33. **RESOLUTION AMENDING CONTRACT NUMBER 22649 BETWEEN THE CITY OF MEMPHIS AND THE FRIENDS OF LEVITT PAVILION TO ALLOW SALE OF BEER OR WINE BY THE CUP OR ALLOW PARTICIPANTS TO BRING BEER OR WINE.**

MOTION: Flinn
SECOND: Strickland
AYES: Conrad, Flinn, Ford, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins
NAY: Boyd
Fullilove abstained
Brown and Halbert did not cast a vote
Morrison was absent

APPROVED

35. **RESOLUTION AMENDING THE FISCAL YEAR 2010 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING A CONSTRUCTION ALLOCATION FUNDED BY G.O. BONDS FROM METAL MUSEUM N. BLUFF REPAIR, PROJECT NUMBER PW04073 TO AN ARCHITECTURE/ENGINEERING ALLOCATION IN ELVIS PRESLEY/SHELBY/WINCHESTER, PROJECT NUMBER PW01064.**

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Halbert, Lowery, Strickland, Ware and
Chairman Collins
Fullilove and Hedgepeth did not cast a vote
Morrison was absent

APPROVED

42. **RESOLUTION ADJUSTING ADDITIONAL TREATMENT CHARGE FOR CITY OF MEMPHIS SEWER FEES.**

Held until June 8, 2010

(Special Item #2 – Same Night Minutes for Items #6, #23, #24, #30, #33, #37, #39 & #40 from tonight's meeting)

MOTION: Ware
SECOND: Flinn
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Strickland, Ware and
Chairman Collins
Brown, Hedgepeth and Lowery did not cast a vote
Morrison was absent

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

ADJOURNED MEETING AT 6:00 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records